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DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-874]

Certain Hot-Rolled Steel Flat Products from Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain hot-rolled steel flat products from Japan were sold at less than normal value during the period of review (POR), March 22, 2016 through September 30, 2017.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao or Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1396 or (202) 482-2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2018, Commerce published the *Preliminary Results* of this review in the Federal Register.<sup>1</sup> We invited interested parties to comment on the *Preliminary Results*. Between December 14 and December 21, 2019, Commerce received timely filed briefs and

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<sup>1</sup> See *Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016-2017*; 83 FR 56813 (November 14, 2018) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (PDM).

rebuttal briefs from the petitioners,<sup>2</sup> Nippon Steel & Sumitomo Metal Corporation (Nippon Steel) and Tokyo Steel Manufacturing Co., Ltd. (Tokyo Steel).<sup>3</sup>

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.<sup>4</sup> If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. On March 28 and May 22, 2019, we extended the deadline for the final results.<sup>5</sup> The revised deadline for the final results is now June 21, 2019.

These final results cover 20 producers and exporters of subject merchandise. Based on an analysis of the comments received, we have made changes to the weighted-average dumping margins determined for the respondents. The weighted-average dumping margins are listed in the "Final Results of Review" section, below. Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

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<sup>2</sup> The petitioners are AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, SSAB Enterprises, LLC, Steel Dynamics, Inc., and United States Steel Corporation (collectively, the petitioners).

<sup>3</sup> See Petitioners' Letter, "*Certain Hot-Rolled Steel Flat Products from Japan: Case Brief* Nucor Corporation," dated December 14, 2019; see also Nippon Steel's Letter, "*Certain Hot-Rolled Steel Flat Products from Japan: NSSMC's Case Brief*," dated December 14, 2019; Tokyo Steel's Letter, "*Case Brief of Tokyo Steel Manufacturing Co., Ltd: Certain Hot-Rolled Steel Flat Products from Japan*," dated December 14, 2019; Petitioners' Letter, "*Certain Hot-Rolled Steel Flat Products from Japan: Rebuttal Brief* Nucor Corporation," dated December 21, 2019; Nippon Steel's Letter, "*Certain Hot-Rolled Steel Flat Products from Japan: NSSMC's Rebuttal Brief*," dated December 21, 2019; and Tokyo Steel's Letter, "*Rebuttal Brief of Tokyo Steel Manufacturing Co., Ltd: Certain Hot-Rolled Steel Flat Products from Japan*," dated December 21, 2019.

<sup>4</sup> See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

<sup>5</sup> See Memoranda, "Certain Hot-Rolled Steel Products from Japan: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2016-2017," dated March 28, and May 22, 2019.

### Scope of the Order<sup>6</sup>

The merchandise covered by the order is certain hot-rolled steel flat products. For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.<sup>7</sup>

### Final Determination of No Shipments

In the *Preliminary Results*, Commerce preliminarily determined that Hitachi Metals, Ltd. (Hitachi), Honda Trading Canada, Inc. (Honda), and Panasonic Corporation (Panasonic) each had no shipments of subject merchandise during the POR. U.S. Customs and Border Protection (CBP) subsequently confirmed these companies had no shipments.<sup>8</sup> As no party has identified any record evidence which would call into question these preliminary findings with respect to Hitachi, Honda, or Panasonic, we continue to find that these companies made no shipments of subject merchandise during the POR. Accordingly, consistent with our practice, we intend to instruct CBP to liquidate any existing entries of subject merchandise produced by these three companies, but exported by other parties without their own rate, at the all-others rate.<sup>9</sup>

Mitsui & Co. Ltd. (Mitsui) also initially claimed no shipments during the POR.<sup>10</sup> Based on information received from CBP,<sup>11</sup> we stated in the *Preliminary Results* we would continue to include Mitsui with the companies under review and make a determination for the final results

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<sup>6</sup> See *Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders*, 81 FR 67962 (October 3, 2016) (*Order*).

<sup>7</sup> See Memorandum, “Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review: Certain Hot-Rolled Steel Flat Products from Japan; 2016-2017,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>8</sup> See Memorandum, “No Shipment Inquiry with Respect to the Company Below During the Period 03/22/2016 through 09/30/2017,” dated October 23, 2018 (Public Version).

<sup>9</sup> See, e.g., *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010).

<sup>10</sup> See Mitsui’s Letter, “Antidumping Administrative Review of Certain Hot-Rolled Steel Flat Products: Mitsui No Shipment Notification,” dated January 5, 2018.

<sup>11</sup> See Memorandum, “No Shipment Inquiry with Respect to the Company Below During the Period 03/22/2016 through 09/30/2017,” dated October 23, 2018 (Proprietary Version).

after soliciting more information and comments on Mitsui. On December 20, 2018, we placed U.S. entry documentation on the record and provided parties with an opportunity to comment. We also requested Mitsui to explain the apparent discrepancy between its claim of no shipments and the CBP information.<sup>12</sup> Mitsui responded by stating that the documents provided to Commerce by CBP were consistent with the entry documentation which it had now retrieved by Mitsui & Co., (USA), Inc. (Mitsui USA), indicating that during the POR there was, in fact, one shipment of subject merchandise by Mitsui of Japan, sold to and entered by a U.S. customer.<sup>13</sup> Mitsui added that it regretted its error, and that it was seeking to withdraw its certification.<sup>14</sup> No other interested parties filed comments. Therefore, for the final results, we find that Mitsui had shipments of subject merchandise to the United States during the POR.

#### Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum, which is hereby adopted with this notice. The issues are identified in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

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<sup>12</sup> See Memorandum, "Placing U.S. Entry Documents on the Record," dated December 20, 2018.

<sup>13</sup> See Mitsui's Letter, "Antidumping Administrative Review of Certain Hot-Rolled Steel Flat Products from Japan: Mitsui Comment on U.S. Entry Documents Placed on the Record," dated December 27, 2018.

<sup>14</sup> *Id.*

### Changes Since the Preliminary Results

Based on our review and analysis of the comments received from parties, we made certain changes to the margin calculations for both Nippon Steel and Tokyo Steel. For a discussion of these changes, *see* the Issues and Decision Memorandum.

### Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}."

For these final results, we calculated weighted-average dumping margins that are not zero, *de minimis*, or determined entirely on the basis of facts available for Nippon Steel and Tokyo Steel. Accordingly, Commerce has assigned to the companies not individually examined (*see* Appendix II, for a full list of these companies) a margin of 6.92 percent, which is the weighted-average of Nippon Steel's and Tokyo Steel's calculated weighted-average dumping margins for these final results.<sup>15</sup>

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<sup>15</sup> This rate is based on the weighted-average of the margins calculated for those companies selected for individual review using the publicly-ranged U.S. quantities. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business proprietary information, we find this rate to be the

## Final Results of Review

Commerce determines that the following weighted-average dumping margins exist for the period March 22, 2016 through September 30, 2017:

<b>Exporter/ Producer</b>	<b>Weighted-Average Dumping Margin (Percent)</b>	
Nippon Steel & Sumitomo Metal Corporation <sup>16</sup>	7.64	
Nisshin Steel Co., Ltd. <sup>17</sup>	3/22/2016 to 3/12/2017	3/13/2017 to 9/30/2017
	6.92 <sup>18</sup>	7.64 <sup>19</sup>
Tokyo Steel Manufacturing Co., Ltd.	2.06	
Non-examined companies <sup>20</sup>	6.92	

## Disclosure

We intend to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

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best proxy of the actual weighted-average margin determined for the mandatory respondents Nippon Steel and Tokyo Steel. See Memorandum, "Calculation of the Review-Specific Average Rate for Non-Examined Companies," dated concurrently with this notice (Non-Examined Companies Rate Memorandum).

<sup>16</sup> We collapsed Nippon Steel & Sumikin Bussan Corporation with Nippon Steel & Sumitomo Metal Corporation in the underlying investigation. See *Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination*, 81 FR 15222 (March 22, 2016) and accompanying PDM at 6-7.

<sup>17</sup> In the *Preliminary Results* we collapsed Nisshin Steel Co., Ltd. and Nippon Steel & Sumitomo Metal Corporation as of March 13, 2017. See *Preliminary Results* PDM at 9. No parties commented on this, thus, we made no changes to this determination for these final results.

<sup>18</sup> Entries of subject merchandise produced/exported by Nisshin Steel Co., Ltd. made prior to March 13, 2017 are subject to the non-examined companies' rate calculated in this administrative review. See Non-Examined Companies Rate Memorandum.

<sup>19</sup> Entries of subject merchandise produced/exported by Nisshin Steel Co., Ltd. made on/or after March 13, 2017 are subject to the AD rate assigned to Nippon Steel in this administrative review.

<sup>20</sup> See Appendix II, for a full list of these companies.

## Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review in the *Federal Register*.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).<sup>21</sup> Where Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, Commerce will direct CBP to assess importer- (or customer-) specific assessment rates based on the resulting per-unit rates.<sup>22</sup> Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (i.e., 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.<sup>23</sup> Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.<sup>24</sup>

For the companies which were not selected for individual review, we will assign an assessment rate based on the methodology described in the “Rates for Non-Examined Companies” section, above.

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<sup>21</sup> See 19 CFR 351.212(b)(1).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See 19 CFR 351.106(c)(2).

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Nippon Steel, Tokyo Steel, or the non-examined companies for which the producer did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.<sup>25</sup>

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the companies listed in these final results will be equal to the weighted-average dumping margins established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment in which the company was reviewed; (3) if the exporter is not a firm covered in this review or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.58 percent,<sup>26</sup> the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

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<sup>25</sup> For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

<sup>26</sup> See *Certain Hot-Rolled Steel Flat Products from Japan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 53409 (August 12, 2016).



This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5) of Commerce's regulations.

Dated: June 21, 2019.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

## **Appendix I**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Application of Partial Facts Available and Use of Adverse Inference
- V. Final Determination of No Shipments
- VI. Changes Since the Preliminary Results
- VII. Discussion of the Issues

#### Tokyo Steel-Specific Issues

- Comment 1: Whether Commerce Should Apply Total AFA to Tokyo Steel for Failing to Explain Its Original Cost Reporting Methodology
- Comment 2: Correction of Error in Tokyo Steel's Margin Calculation

#### Nippon Steel-Specific Issues

- Comment 3: Whether Commerce Should Continue to Apply Partial AFA to Certain Nippon Steel's Affiliated Downstream Resales in the Home Market
- Comment 4: Whether Commerce Should Grant a Constructed Export Price Offset to Nippon Steel
- Comment 5: Processing Expenses Incurred by Nippon Steel's Affiliated Trading Company in Japan
- Comment 6: Nippon Steel's Failure to Submit Full Translations of Requested Financial Statement
- Comment 7: Nippon Steel's Failure to Provide a Separate Section A Response for Nisshin Steel Co., Ltd
- Comment 8: Nippon Steel Refused to Report All the HM Sales in the Window Period that Are Necessary for the Margin Calculations
- Comment 9: Nippon Steel Did Not Report Nisshin's Sales and Costs for the Entire POR
- Comment 10: Whether Nippon Steel Failed to Report All of its U.S. Sales
- Comment 11: Nisshin's G&A Expenses Ratio Calculation
- Comment 12: Whether Nippon Steel Failed to Provide a Usable Section E Response
- Comment 13: Whether Nippon Steel Reported Incorrect "Mark-up" Rates
- Comment 14: Whether Nippon Steel Failed to Provide the Required Information on the Affiliated Suppliers of Major Inputs
- Comment 15: Whether Nippon Steel Failed to Provide Requested Information on Affiliate's Assets
- Comment 16: Whether Commerce Should Revise Its Major Input Rule Adjustment to Steelscape LLC's Costs Based on Steelscape Washington LLC's Full Cost of Production
- Comment 17: Whether Commerce Should Revise the Reported G&A Expense Ratio for Steelscape LLC

- VIII. Recommendation

## Appendix II

### List of Companies Not Individually Examined

Hanwa Co., Ltd.  
JFE Steel Corporation<sup>27</sup>  
JFE Shoji Trade America  
Kanematsu Corporation  
Kobe Steel, Ltd.  
Mitsui & Co., Ltd.  
Miyama Industry Co., Ltd.  
Nippon Steel & Sumikin Logistics Co., Ltd.  
Okaya & Co. Ltd.  
Saint-Gobain KK  
Shinsho Corporation  
Sumitomo Corporation  
Suzukaku Corporation  
Toyota Tsusho Corporation Nagoya

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<sup>27</sup> We collapsed JFE Shoji Trade Corporation with JFE Steel Corporation in the investigation. *See Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination*, 81 FR 15222 (March 22, 2016) and accompanying PDM at 8-9 unchanged in *Hot-Rolled Japan Final Determination*

